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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicant:** Timothy E. McCue et al      **Date:** March 14, 2005  
**Serial No.:** 10/828,589  
**Filed:** April 22, 2004      **Group Art Unit:** 3677  
**Title:** Adjustable Hinge      **Examiner:** Jackson, Andre L.

**HON. COMMISSIONER OF PATENTS AND TRADEMARKS  
WASHINGTON, D.C. 20231**

## **RESPONSE TO SECOND OFFICE ACTION**

This paper is in response to an Office Action dated September 21, 2005.

## **COMMENTS**

The Examiner rejects claims 11, 12, 14 and 15 under "35 U.S.C. 102(b) as being anticipated by USPN 2,583,950 to Kirschner". The Examiner points out various elements of the Kirschner hinge and how they relate to each other that the applicant does not argue with.

However, the applicant disagrees with one important statement that the Examiner makes. In part, at the end of the first paragraph of the rejection, the Examiner states:

“.....wherein the first connecting member is freely movable along the unthreaded hinge pin (Fig. 4), and as the first hinge is adjusted in the vertical direction the second hinge follows the first hinge by the first connecting member moving freely along the unthreaded hinge pin.”  
(underlining emphasis added)

No where in the Kirschner reference is it stated or implied that the second hinge moves freely along an unthreaded hinge pin, and there is not even a mention of an “unthreaded” anything in that patent. The upper and lower hinges shown in Figure 1 are identical and both must be independently adjusted while adjusting door D. The description in the specification of the Kirschner reference is of a single, adjustable hinge and two of them are used to mount door D as

mentioned at col. 3, lines 1 – 3. Starting right after line 3 is a description of adjusting the two hinges on door D to eliminate sag by moving the outer, free end of the door upward, but there is no description of adjusting the vertical height of the door with the adjustable hinges. Because the two hinges are identical the set screws 17 of both hinges must first be loosened, then nut 34 on the bottom of pintle 22 must be loosened on both hinges, then the pair of sleeve nuts 24 on each hinge pintle 22 (above and below a hinge strap) must be rotated to move the hinge strap 18 of each hinge up or down. This is a total of four sleeve nuts 24 that must be turned (adjusted) in a cooperative manner to adjust door D in the vertical direction. This is a complex procedure. As the sleeve nuts of one hinge are turned to move the door vertically, with the nut 34 of the other hinge being loosened, the pintle 22 of the other hinge moves vertically and the sleeve nuts thereon them must be adjusted.

This complex adjustment is the problem that is solved by the applicant's present invention. Only one hinge is vertically adjusted and the other hinge follows vertically. There are two hinges, one being different from the other in that the lower hinge cannot be adjusted vertically, but rather moves vertically as the upper hinge is adjusted vertically. This is clearly described in the applicant's specification.

It is this novel difference that is claimed in applicant's amended claim 11. Claim 11 reads as follows:

11. An adjustable hinge set for mounting a door or gate to a fixed member, comprising:

a first hinge that is attached to the fixed member and to the door or gate, the first hinge being manually adjustable to adjust the position of the door or gate with respect to the fixed member in both a vertical and horizontal direction;

a second hinge that is attached to the fixed member and to the door or gate, and as the first hinge is adjusted to move the door or gate in the vertical direction the second hinge follows the first hinge and does not have to be manually adjusted to change the vertical position of the second hinge on the door or gate; and

wherein the second hinge comprises:

a first plate that is attached to the fixed member;

a second plate that is attached to the edge of a door or gate;

an unthreaded hinge pin; and

a first connecting member fastened to the first plate and having an unthreaded hole through which the unthreaded hinge pin passes to pivotally attach the first connecting member to the first plate, the first connecting member having an extension; and

a second connecting member fastened to the second plate and having a hole through which the first connecting member extension passes and is secured in the hole;

wherein the first connecting member is freely moveable along the unthreaded hinge pin, and as the first hinge is adjusted in the vertical direction the second hinge follows the first hinge by the first connecting member moving freely along the unthreaded hinge pin.

Thus, it is very clear from claim 11 that only the first hinge is adjustable in both vertical and horizontal directions, and the second hinge is not adjustable in the vertical direction, but "follows the first hinge" by "moving freely along the unthreaded hinge pin".

Thus, claims 11, 12 14 and 15 are clearly believed to be allowable. Claim 11 is believed to be allowable for the reasons described above, and dependent claims 12, 14 and 15 are believed to be allowable based on their dependency from claim 11.

The applicant notes that the Examiner has deemed the applicant's arguments regarding the Mallory and Haege patents to be persuasive and the earlier rejection is withdrawn.

In view of the above argument this patent application is now believed to be in condition for allowance and passage to issuance is respectfully requested. If there remain any matters that may be resolved by telephone the Examiner is invited and authorized to contact the undersigned attorney via telephone at (603) 432-8788, via fax at (603) 421-2779, or via e-mail at jfunk777@adelphia.net.

Sincerely,



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